IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.37690 of 2004

M.Karnan .. Petitioner

vs.

1. The Government of Tamil Nadu,
   rep. by its Secretary,
   Home Department, Fort St. George,
   Chennai - 9.

2. The Director General of Police,
   (Law and Order),
   Office of the Director General
   of Police, Mylapore, Chennai -4.

3. The District Collector,
   Thoothukudi District.

4. The Superintendent of Police,
   Thoothukudi District. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India as stated therein.

For petitioner : Mr.K.Venkataramani
For respondents : Mr.C.Thirumaran
Government Advocate

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O R D E R

This writ petition has been filed for the issuance of a Writ of Certiorari to call for the records, pursuant to the impugned charge memo in C.No.F1/PR.132/04, dated 19.11.2004, on the file of the second respondent herein and to quash the same.

The brief facts of the case, as stated by the petitioner, are as follows:

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2. The petitioner had joined in the Police Service, as Sub-Inspector of Police, in the year 1973. Later, he had been promoted as a Deputy Superintendent of Police. On 15.2.2004, he had joined as the Deputy Superintendent of Police, Kovilpatti Sub-Division, in Thoothukudi District. On 17.2.2004, he had taken up the further investigation of Kayathar P.S.Crime No.295 of 2003, under Section 3(1) (v) of SC/ST Act read with Section 420 of I.P.C. and Section 4 of the Tamil Nadu Prohibition of Charging Ex-orbitant Interest Ordinance, 2003, as per Na.Ka.No.33/camp/SP-TUT/2004, on the file of the Additional Superintendent of Police (Crime), Thoothukudi District, who was then in charge of the Kovilpatti Sub-Division.

3. While so, a charge memo, dated 19.11.2004, had been issued to the petitioner by the second respondent under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, in C.No.P.R.132/2004. The two charges, that were framed against the petitioner, were for alleged gross neglect of duty in having failed to investigate the case in Kayathar P.S. Crime No.295/2003 on proper lines and for highly reprehensible conduct in having exhibited defiant, disobedient, insubordination and recalcitrant attitude, when the Collector, Thoothukudi, enquired him, on 25.5.2004.

4. The petitioner had submitted his representation, as reply to the charges, on 29.11.2004. However, there was no reply from the second respondent thereafter. Therefore, the petitioner has preferred the present writ petition on the various grounds as stated therein.

5. In the counter-affidavit filed on behalf of the respondents, it has been stated that the charge memo had been issued against the petitioner, since he has not investigated properly, the case in Kayathar P.S. Crime No.295 of 2003, which was registered, on 16.12.2003. The investigation by the petitioner was done in a cursory manner and he had sent a report to the District Vigilance and Monitoring Committee to treat the case as 'Mistake of Law'. Since the District Collector is the Chairman for the District Vigilance and Monitoring Committee to review the implementation of the provisions of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, as narrated in the Rule 17(1) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Rules, 1995, he had issued certain instructions, which were ignored by the petitioner during the investigation. Therefore, a charge memo had been issued against the petitioner and a Departmental Enquiry has been initiated thereon, in accordance with the procedures established by law.

6. Heard the learned counsel appearing on behalf of the petitioner as well as for the respondents.

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7. The learned counsel appearing on behalf of the petitioner has contended that the Departmental Enquiry initiated against the petitioner will prejudice the petitioner, since he is not likely to get justice, as it would not be conducted in a fair and proper manner.

8. The learned counsel appearing on behalf of the petitioner has also contended that there are a number of grounds in favour of the petitioner, as stated in the affidavit filed in support of the writ petition, which the respondents and their Officers will not consider impartially, if the enquiry is allowed to proceed.

9. On the other hand, the learned Government Advocate appearing on behalf of the respondents has submitted that the apprehensions of the petitioner cannot be sustained, as they are without any basis or merit. The Departmental Enquiry, based on the charges framed against the petitioner, would be conducted in a fair and proper manner, in accordance with the procedures established by law and that it would always be open to the petitioner to challenge the same at an appropriate stage, if it had been irregularly or improperly conducted and if the findings are flawed.

10. On a careful consideration of the rival contentions made on behalf of the parties, this Court is of the considered view that the petitioner has not shown sufficient cause for this Court to invoke its extra-ordinary jurisdiction under Article 226 of the Constitution of India to intervene at this stage of the proceedings.

11. The apprehensions of the petitioner, with regard to the Departmental Enquiry, have not been sufficiently substantiated to persuade this Court to grant the prayer of the petitioner. However, the respondents are directed to conduct the Departmental Enquiry, contemplated against the petitioner, in accordance with the procedures established by law, giving sufficient opportunity to the petitioner to defend himself against the charges and pass appropriate orders expeditiously.

12. With the above direction, the writ petition is disposed of. No costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary,
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1 cc To The Government Pleader, SR.5556.

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